

CHAPTER 4. SELECTION AND APPOINTMENT

SUBCHAPTER 1. TYPES OF APPOINTMENTS

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4A:4-1.1 Career service appointments

(a) Regular appointments to titles allocated to the competitive division of the career service shall be subject to an examination process and successful completion of a working test period.

(b) The Commissioner may authorize an appointing authority to make a regular appointment of a qualified person to a title in the noncompetitive division of the career service without an examination. Preference shall be given to disabled veterans and then veterans. See N.J.A.C. 4A:5 on veterans preference.

(c) The Commissioner may authorize the promotion, through promotional examination procedures, from the noncompetitive division, of permanent employees who meet the open competitive requirements, to:

1. A related entry level title in the competitive division; or
2. In appropriate situations, to a related above-entry level title in the competitive division.

4A:4-1.2 Senior executive service appointments: State service

(a) A senior executive service appointment may be made to any position allocated to the senior executive service by the Board.

(b) Permanent career service employees and qualified persons without permanent status are eligible for senior executive service appointments. See N.J.A.C. 4A:3-2.

4A:4-1.3 Unclassified appointments

(a) An unclassified appointment may be made to any title or position allocated to the unclassified service by statute or the Board.

(b) The permanent appointment rights of Title 11A, New Jersey Statutes, are not applicable to unclassified appointments. See N.J.A.C. 4A:3.

4A:4-1.4 Conditional regular appointments

(a) A conditional regular appointment may be made in the competitive division of the career service when disputes or appeals concerning higher ranking eligibles may affect the final appointments. The names of conditional appointees shall remain on the eligible list for consideration for other employment.

(b) If the rights of a higher ranked eligible are upheld, the conditional regular appointment shall end.

(c) If the final determination of appointment rights causes no change in the selection process, the conditional appointment will be changed to a regular appointment. The original date of appointment will be retained.

(d) The appointing authority shall advise conditional appointees of their status and rights, including any change in appointment status.

4A:4-1.5 Provisional appointments

(a) A provisional appointment may be made only in the competitive division of the career service when all of the following conditions are met:

1. There is no complete list of eligibles, and no one remaining on an incomplete list will accept provisional appointment;

2. The appointee meets the minimum qualifications for the title at the time of the appointment; and

3. The appointing authority certifies that failure to make the provisional appointment will seriously impair its work.

(b) Any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his or her title shall be separated from the provisional title. The appointing authority shall be notified by the Department

and shall take necessary steps to separate the employee within 30 days of notification, which period may be extended by the Commissioner for good cause.

4A:4-1.6 Interim appointments

(a) For purposes of this rule, the term "phasedown" shall mean a phased reduction in size of a government operation, in anticipation of a closing of the operation.

(b) When an appointing authority makes an appointment to a specific position in State service or a specific title in local service, an interim appointment shall be made where the position/title is held by a permanent employee who:

1. Is on a leave of absence;
2. Is on indefinite suspension;
3. Has been removed or demoted for disciplinary reasons and is awaiting final administrative action by the Merit System Board on appeal; or
4. Has accepted an interim appointment.

(c) An interim appointment may be made where the position/title will be abolished at a future date pursuant to a closing or phasedown of a government operation. Such an interim appointment may be made only following official notification to the Commissioner of Personnel by the applicable department head, in State service, or by the appointing authority, in local service, of the closing or phasedown.

(d) An interim appointment may also be made to a vacant position/title in a government operation not scheduled for a closing or phasedown where:

1. An employee of a government operation scheduled for a closing or phasedown has accepted a reassignment to that government operation;
2. Due to operational requirements, the employee is needed by the governmental operation scheduled for the closing or phasedown while it continues to operate;
3. The government operation not scheduled for a closing or phasedown needs to fill the vacant position/title to which the employee would have been reassigned; and
4. The notification requirements in (c) above are met.

(e) When an appointing authority does not make an appointment in the situations listed in (b) above, the appointing authority shall reserve a position/title for the absent employee as a vacant position/title.

(f) Any interim appointment shall remain in effect only during the period of time that the permanent employee is on an approved leave of absence, on indefinite suspension or awaiting final administrative action of the Merit System Board on the appeal of a disciplinary demotion or removal, or during the period leading up to the date on which the closing or phasedown of the government operation is scheduled to conclude.

1. At the end of the interim appointment, the appointee shall return to his or her permanent title.

(g) An interim appointee shall possess the minimum qualifications for the title.

(h) If a complete eligible list exists for the title, the interim appointment shall be made from that list. An interim appointee's name shall remain on the eligible list for consideration for permanent employment.

1. If the closing or phasedown of a government operation is rescinded after an interim appointment has been made from an eligible list, the interim appointee who was appointed from the eligible list shall receive a permanent appointment subject to the satisfactory completion of a working test period, regardless of whether the eligible list has already expired.

(i) An interim appointee shall continue to accrue seniority in his or her permanent title.

(j) The layoff rights of an interim appointee shall be determined from his or her permanent title. See N.J.A.C. 4A:8-2.

(k) The appointing authority shall advise interim appointees of their rights under an interim appointment. See N.J.A.C. 4A:4-4.7 for effect on permanent appointment rights.

4A:4-1.7 Temporary appointments

(a) The Commissioner may approve temporary appointments to positions in which the job assignment is for an aggregate period of not more than six months in a 12-month period. A temporary appointment for a maximum of 12 months may be approved by the Commissioner to a position established as a result of a short-term grant.

(b) A temporary appointee shall meet the minimum qualifications for the title.

(c) See N.J.A.C. 4A:4-4.7 for effect on permanent appointment rights.

(d) Consecutive temporary appointments in excess of the periods set forth in (a) above are prohibited.

4A:4-1.8 Emergency appointments

The Commissioner may authorize an emergency appointment for a period not to exceed 30 days when the appointing authority certifies that the failure to make such appointment will result in harm to persons or property.

4A:4-1.9 Return of employees to their permanent titles

(a) An employee with permanent status in a career service title, who is returned during or at the end of the working test period in another title, or from an appointment under N.J.A.C. 4A:4-1.3, 1.4, 1.5, 1.6, 1.7 or 1.8, to his or her permanent title, will have rights to a position in the permanent title in the same organizational unit.

1. The employee must have held the permanent title within current continuous service.

2. In State service, an organizational unit shall mean an appointing authority. In local service, an organizational unit shall mean a department or separate agency within the same governmental jurisdiction. A school district shall be considered a separate jurisdiction.

(b) The appointing authority shall use the following procedures, to effect the return of the permanent employee:

1. Reassign the employee to a vacant position/title;

2. Separate a provisional employee with no permanent status and reassign the returning employee to the position/title; or

3. Return an employee serving provisionally in the permanent title of the returning employee to his or her permanent title and reassign the returning employee to the position/title.

(c) The appointing authority and the returning employee may agree to use the following optional procedures to effect the return of the permanent employee.

1. The employee may accept appointment to other titles at the same or lower level, in the same or a different series for which the employee qualifies in the same or another organizational unit.

2. The status and compensation rights of the returning employee shall be determined in accordance with normal merit system rules and policies.

(d) When the appointing authority offers the employee options under (b) and (c) above, the employee may choose to accept either option.

(e) If the appointing authority offers only an option under (b) above, the employee must accept the option offered.

(f) Layoff procedures must be utilized when the appointing authority cannot effect the return of a permanent employee under (b) or (c) above. See N.J.A.C. 4A:4-4.8(d) on certification procedures.

4A:4-1.10 Approval of appointments by Department of Personnel

(a) All initial and subsequent appointments, promotions, and related personnel actions in the career, unclassified or senior executive service are subject to the review and approval of the Department of Personnel.

1. The Commissioner may direct personnel action freezes in connection with layoffs or other emergent circumstances.

(b) Following submission and review of personnel actions, the appointing authority shall be notified by the Department of Personnel whether the action has been approved or disapproved and the reasons for any disapproval. The appointing authority shall provide written notice to all affected employees of such personnel actions.

(c) When a regular appointment has been made, the Commissioner may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.

4A:4-1.11 (Reserved)